

Ramon Rossi Lopez - rlopez@lopezmchugh.com  
(California Bar Number 86361; admitted *pro hac vice*)  
Lopez McHugh LLP  
100 Bayview Circle, Suite 5600  
Newport Beach, California 92660  
949-812-5771

Mark S. O'Connor (011029) – mark.oconnor@gknet.com  
Gallagher & Kennedy, P.A.  
2575 East Camelback Road  
Phoenix, Arizona 85016-9225  
602-530-8000

*Co-Lead/Liaison Counsel for Plaintiffs*

Thomas P. Cartmell (MO Bar No. 45366 )  
(admitted *pro hac vice*)

David C. DeGreeff (MO Bar No. 55019)  
(admitted *pro hac vice*)

Wagstaff & Cartmell, LLP  
4740 Grand Ave., Suite 300  
Kansas City, MO 64112  
(816) 701-1100

*Attorney for Plaintiff*

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

In Re Bard IVC Filters Products  
Liability Litigation

No. MD-15-02641-PHX-DGC

DEBRA MULKEY,

Plaintiffs,

No. CV-16-00853-PHX-DGC

v.

C.R. BARD, INC., a New Jersey  
corporation and BARD PERIPHERAL  
VASCULAR, an Arizona corporation,

Defendants.

**NOTICE OF PLAINTIFF DEBRA  
MULKEY'S STATUS FOR TRIAL  
BEGINNING SEPTEMBER 18, 2018**

Pursuant to the Court's June 13, 2018 Minute Entry, Plaintiff Debra Mulkey provides  
the following update on her ability to proceed with trial beginning on September 18, 2018:

1           1.       Plaintiff's preference is to have her trial go forward on September 18, 2018,  
2 as planned and her counsel has continued to work diligently in preparation for trial on that  
3 date; however, uncertainty remains as to Plaintiff's ability to proceed with trial on that date.

4           2.       Plaintiff's counsel, David DeGreeff, recently spoke with Dr. Hanif's nurse.  
5 Dr. Hanif is Plaintiff's treating neurologist for her seizure-like symptoms. Her nurse passed  
6 on the following from Dr. Hanif:

- 7                   a. Plaintiff's physicians are just beginning efforts to diagnose her problem.  
8                   b. Currently, the plan is to do the following tests (none of which have been  
9 started and ongoing issues with insurance exist):  
10                      i. An EEG to determine if Plaintiff is having seizures;  
11                      ii. Requiring Plaintiff to wear an event monitor for 7 days to ascertain  
12 whether she is having heart problems;  
13                      iii. Tilt table testing to determine if Plaintiff is having issues with  
14 sudden blood pressure changes; and  
15                      iv. Any other testing implicated by the results of the above.  
16                   c. It will be at least a month before Plaintiff's physicians have a preliminary  
17 diagnosis.  
18                   d. It is important to understand Plaintiff's medical issues before subjecting  
19 her to the stress of a 3-week trial across the country.  
20                   e. When a diagnosis is made, there may be additional timing issues. For  
21 example, if Plaintiff is having seizures her doctors will have to work with  
22 her medications over a period of time to get everything properly regulated.  
23 This is also true for some of her potential heart issues

24           3.       Based on the foregoing, this Court's Minute Entry and instructions during the  
25 recent phone conference, and the associated lack of certainty about Plaintiff's availability  
26 for trial, it is clear this bellwether needs to be moved back to a later bellwether trial setting.  
27 To ensure enough time is available to resolve her health issues and to avoid a similar issue  
28

1 prior to the November 2018 bellwether trial, Plaintiff's counsel requests this case be reset  
2 as the fifth bellwether trial – i.e. the trial starting in the first quarter of 2019. This should  
3 allow enough time to resolve all potential health concerns.

4 4. Without waiving the prior position set forth in Plaintiffs' motion in *limine* No.  
5 1 (Doc. 9529; Order, Doc. 9881), Plaintiffs do not intend to re-urge this motion in  
6 bellwether number 3, whichever case is chosen.

7 RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of June, 2018.

8 GALLAGHER & KENNEDY, P.A.

9 By: /s/ Mark O'Connor

10 Mark S. O'Connor

11 2575 East Camelback Road

12 Phoenix, Arizona 85016-9225

13 LOPEZ McHUGH LLP

14 Ramon Rossi Lopez (CA Bar No. 86361)

15 (admitted *pro hac vice*)

16 100 Bayview Circle, Suite 5600

17 Newport Beach, California 92660

18 *Co-Lead/Liaison Counsel for Plaintiffs*

19 WAGSTAFF & CARTMELL

20 By: /s/ David C. DeGreeff

21 Thomas P. Cartmell (MO Bar No. 45366 )

22 (admitted *pro hac vice*)

23 David C. DeGreeff (MO Bar No. 55019)

24 (admitted *pro hac vice*)

25 4740 Grand Ave., Suite 300

26 Kansas City, MO 64112

27 *Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 21, 2018 a true and correct copy of the foregoing was sent via U.S. Mail and/or Electronic Mail to:

James R. Condo  
Amanda Sheridan  
Snell & Wilmer LLP  
400 East Van Buren Street, Suite 1900  
Phoenix, Arizona 85004  
*Attorneys for Defendants*

Richard B. North, Jr.  
Matthew Lerner  
Nelson Mullins Riley & Scarborough LLP  
201 17<sup>th</sup> Street NW, Suite 1700  
Atlanta, Georgia 30363  
*Attorneys for Defendants*

\*Counsel for Plaintiffs will be served in accordance  
with the Court's Case Management Order No. 1

/s/ Jessica Gallentine